

Meeting of 2011-3-8 Regular Meeting

MINUTES
LAWTON CITY COUNCIL REGULAR MEETING
MARCH 8, 2011 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Fred L. Fitch Also Present:
Presiding Larry Mitchell, City Manager
 Frank V. Jensen, City Attorney
 Traci Hushbeck, City Clerk
COL Ray Lacey, Fort Sill Liaison

Mayor Fitch called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Father Joseph Ross, Blessed Sacrament Catholic Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
Michael Tennis, Ward Two
Rosemary Bellino-Hall, Ward Three
Jay Burk, Ward Four
Rex Givens, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: None

PROCLAMATION FOR VIETNAM VETERANS AWARENESS DAY

Mayor Fitch proclaimed March 17, 2011 as Vietnam Veterans Awareness Day and presented the proclamation to members of the Vietnam Veterans of America, Inc., Lawton Chapter.

STATE OF THE CITY ADDRESS BY MAYOR FRED L. FITCH

Mayor Fitch read highlights from the State of the City speech. The entire speech is posted on the website and on file in the City Clerks Office.

CONDUCT ELECTION OF MAYOR PRO TEM

Givens nominated Councilmember Jay Burk.

MOVED by Givens, SECOND by Tennis, to elect Jay Burk as Mayor Pro Tem.
AYE: Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETINGS OF SEPTEMBER 28, 2010 AND FEBRUARY 22, 2011.

MOVED by Burk, SECOND by Givens to approve the minutes of September 28, 2010 and February 22, 2011. AYE: Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Haywood requested item #8 and Wells requested items #9, #10 and #15 be considered separately. Mitchell

requested items #11 and #12 be considered following item #22.

MOVED by Burk, SECOND by Givens to approve the consent agenda with the exception of items #8, #9, #10, #11, #12 and #15. AYE: Burk, Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall. NAY: None. MOTION CARRIED.

1. Consider adopting a resolution approving the settlement by a joint petition and making payment in the workers compensation claim of Larry Burnison. Exhibits: **Resolution 11-10**.

2. Consider authorizing the City Attorney to initiate litigation against Melissa Hecker to recover damages sustained by the City by spray painted graffiti causing damage to City property. Exhibits: None.

3. Consider retiring Lawton Police Department s K-9 Rex from service. Exhibits: None.

4. Consider retiring Lawton Police Department s K-9 Rico from service. Exhibits: None.

5. Consider approving a credit adjustment in the amount of \$1,313.47 for two months bills to the Bishop Estates System s service account #00022119 for the association s master meter located at 5902 SE 45th Street for an undetected, underground leak on the association s service line. Exhibits: Statements from Hodges Plumbing dated 1/20/2011.

6. Consider renewing a Professional Services Agreement with John Lemmon Films, Inc. for a stormwater education campaign, and authorize the Mayor and City Clerk to execute the document. Exhibits: Professional Services Agreement.

7. Consider accepting a temporary easement from Harold H. Wear Jr. & Kassie Wear for right of way needed for the NW Santa Fe Bridge Replacement Project #2010-2, authorizing the Mayor and City Clerk to execute the document and authorizing payment for the same. Exhibits: Temporary easement is on file in the City Clerk's office.

8. Consider adopting a Resolution authorizing the installation of traffic control measures on: westbound SW Georgia Avenue at the intersection of SW 17th Street; westbound SW Pennsylvania Avenue at the intersection of SW 17th Street; westbound SW Wisconsin Avenue at the intersection of SW 17th Street; westbound SW Tennessee Avenue at the intersection of SW 17th Street; westbound SW Texas Avenue at the intersection of SW 17th Street; westbound SW Oklahoma Avenue at the intersection of SW 17th Street; and westbound NW Lincoln Avenue at the intersection of NW 38th Street. Exhibits: Resolution No. 11- ____, Traffic Commission Minutes and Traffic Issue Request.

Haywood stated he has asked the traffic division to notify him if there is a request made concerning Ward 7. He stated a lot of people take a short cut on 17th Street to go to the landfill. He stated from 17th and Lee to Douglas there are stop signs and from 17th and Georgia to Bishop there is only one stop sign. He is recommending that stop signs be placed at 17th and Georgia, Pennsylvania, Wisconsin, Tennessee, Texas and Oklahoma instead of yield signs.

Jerry Ihler, Public Works Director, stated the reason they had recommended yield signs was because the manual on uniform traffic control states that you should have yield signs if site distance is good or if the traffic volume on the adjoining street is less than 6,000 vehicles. The reason they did recommend a stop sign on Tennessee is because there is a site distance problem with a driveway. He stated it is no problem to place stop signs on all of the streets if that is what the council wishes to do.

MOVED by Haywood, SECOND by Tennis to adopt **Resolution 11-11** authorizing stop signs to be placed at the intersections of 17th Street and Georgia, Pennsylvania, Wisconsin, Tennessee, Texas, Oklahoma and westbound NW Lincoln Avenue at the intersection of NW 38th Street. AYE: Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. MOTION CARRIED.

Ihler questioned if each council member would like to be notified of traffic control device requests in each of the wards.

Haywood and Wells stated they would like to see the requests.

Mitchell suggested they just email the Traffic Commission agendas to the council members.

Ihler stated the idea would be to have some discussion before the agenda is mailed out.

9. Consider releasing the performance bond for drainage improvements in Scissortail, Part 1. Exhibits: Plat Map.

Wells questioned why we would recommend that the performance bond be released when it is not done and we are still recommending that no building permits be issued.

Richard Rogalski, Planning Director, stated that other than the grassing, all of the improvements covered by that performance bond are completed. There are some other improvements that are not associated with the bond that have not been completed and that is why they are holding onto the building permit issue. This request came from the developer because there were some financial reasons.

Burk stated he has had some complaints about the traffic going down Euclid and coming in the backside again.

Rogalski stated he was under the impression that the gate was put in and they were not going to keep that open.

Burk stated there were some concrete trucks and other issues because the residents took photos. He does not know what they are going to do to stop them.

Wells questioned if staff wanted to release the performance bond.

Rogalski stated the bonded improvements are completed. Holding the performance bond does not help the City get everything else done. In fact, according to the developer, releasing the bond helps him complete the remaining items. It does not help us to hold it and it may help us to give it up and that is why staff is recommending the release.

Wells stated there is still the issue of the grassing.

Rogalski stated he would post a separate escrow for the grassing. He stated there were a number of fairly large drainage improvements that were covered by the bond, so it is a substantial size bond. The developer is trying to get the big part released and give us another bond for the grassing. The remaining improvements that we are dealing with, other than grassing, are private improvements which are part of the subdivision.

Burk stated that the developer has only done about half of what he has told them he would do. He stated there have been so many issues with this developer. He cannot vote to release this yet.

MOVED by Burk, SECOND by Wells to deny the request.

Jensen stated there is a second part which is to get direction from the council to continue to not issue any further building permits.

Rogalski stated that is an established issue and that will stay in place. If they deny releasing the bond they definitely don't issue any building permits.

Burk stated he thought they were going to stop him from doing any work out there until he completed what he said he would do.

Rogalski stated he did complete all of the drainage improvements that were part of the bond and they did release all of those stop work issues meaning that they allowed him to complete the homes that were already permitted, but they have not allowed any more permits to be issued.

Bellino-Hall questioned how denying the release of the bond would help us at all. If we release the bond the developer has some new resources to do other things. What good does it do to deny the release of the bond?

Wells stated that if he would get the rest of the project done he can get the bond released. This may force him to do something.

Bellino-Hall stated that the developer is saying that he needs these resources from this bond so that he can move on with these other things.

Rogalski stated that the developer is saying that he cannot get anything else done because he has so much money tied up in this bond.

Bellino-Hall stated if the Council does not deny the bond, then it really does not hurt us.

Rogalski stated it is his opinion that it would not hurt the City.

Mayor Fitch stated we have allowed him to finish the two houses that were in question but no more new building

permits have been issued. If we return the bond, he can finish the work that needs to be done and when it is done then we will issue building permits for new buildings.

Jensen stated that is the real leverage here.

Wells stressed that he has not completed the grassing and he may do another bond to complete the grassing.

Mayor Fitch stated we will not allow any more building permits.

Rogalski stated if we accept or deny this, we will not issue any building permits until all of the improvements are completed and the developer has accepted that.

Burk stated he will vote for this when he completes the grassing. He stated the citizens that live around there are angry and he has had more people call him about that subdivision and he is not willing to bend over backwards any more for this guy.

VOTE ON MOTION: AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Burk. NAY: Bellino-Hall, Givens. MOTION CARRIED.

10. Consider approving the record plat for The Meadows, and accepting improvements and maintenance bonds.
Exhibits: Plat Map. Maintenance Bonds on file in City Clerk s Office.

Wells stated the maintenance bond on street improvements is for \$581.25. He questioned what we could do with that amount of money.

Rogalski stated this is a townhouse project so everything inside the project is private drives, however, they built a little hammerhead at the dead end street so that vehicles could turn around. This is a tiny bit of public improvement on the street, so the maintenance bond is for 25% of the cost.

MOVED by Wells, SECOND by Zarle to approve the record plat for The Meadows, and accept improvements and maintenance bonds. AYE: Givens, Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk. NAY: None. MOTION CARRIED.

11. Consider approving the construction plat for Sun Group Development, subject to conditions. Exhibits: Plat Map.

Jensen stated items #11 and #12 will be addressed following item 21.

12. Consider approving the record plat for Sun Group Development, and accepting an escrow agreement in lieu of completion of functional improvements. Exhibits: Plat Map.
Escrow Agreement is on file in City Clerk s Office.

13. Consider accepting the 8-inch waterline, easement, and maintenance bond to serve Switzer s Locker Room located at 602 SW 82nd Street. Exhibits: Location Map.
Easement and Maintenance Bond on file in City Clerk s Office.

14. Consider modifying the front yard setback for Trinity Baptist Church located at 1916 West Gore Boulevard. Exhibits: Site Plan and Application.

15. Consider rejecting the bid on Contract (CL11-004 Financing for Tracked Dozer) from Calfirst National Bank and award the contract to the 2nd lowest bidder Liberty National Bank. Exhibits: Vendor s Mailing List, Bid Record Tabulation.

Wells stated this equipment has already been delivered and has been used prior to the contract being signed with Calfirst National Bank and now they are recommending rejecting the bid. He stated normally they would not do that until the contract was executed.

Mitchell stated this is an unusual case and they could not get the terms of the agreement in place.

Wells questioned if they could put something in place to make sure that employees don t accept equipment until contracts are approved.

Ihler stated with this particular incident the manufacturer who made the equipment wanted to deliver it and we wanted to be able to receive it and utilize it. The manufacturer proceeded at his own risk with the understanding that we did not have the financial loan in place.

Rick Endicott, Finance Director, stated they had a deal with Calfirst when the agreement was signed but they realized they low bid this deal. Once Calfirst realized they were not going to make any money, they started side stepping their obligation and responsibility and we finally realized we could not get a deal done. He stated they will not have an opportunity to bid with us again. Fortunately Liberty Bank was willing to honor their bid from the original bid packet.

Wells stated he does not have a problem with what we are doing.

Mitchell stated we do have a policy in place that we don t accept delivery, these are unusual circumstances.

MOVED by Wells, SECOND by Haywood to reject the bid on Contract (CL11-004 Financing for Tracked Dozer) from Calfirst National Bank and award the contract to the 2nd lowest bidder Liberty National Bank. AYE: Zarle, Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Givens. NAY: None. MOTION CARRIED.

16. Consider extending the contract (CL09-037) Dewatering Polymer to Polydyne Inc. of Riceboro, GA. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

17. Consider extending the contract (CL10-023) Water Line Fittings & Valves to Water Products of Oklahoma, Inc from Owasso, OK. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

18. Consider awarding the contract (CL11-013) Repair Clamps, Bell Joint Clamps & Steel Couplings; Items # s 3-6 and 9 to Water Products of Oklahoma, Inc from Owasso, OK. Exhibits: Department Recommendation, Price Sheet.

19. Consider approving appointments to boards and commissions. Exhibits: None.

Lawton Airport Authority

Robert Milner
500 SW D Avenue
Lawton, Oklahoma 73501

Lawton Economic Development Authority

Doug Wells
1603 NW Horton Blvd.
Lawton, Oklahoma 73507
Council Term

Museum Of The Great Plains Trust Authority

Michael Tennis
Council
1710 NW Cherry Avenue
Lawton Oklahoma 73501

20. Consider approval of payroll for the period of February 21 March 6, 2011.

NEW BUSINESS ITEMS:

21. Hold a public hearing and consider an ordinance changing the zoning classification of the property located at approximately 7402 NW Quanah Parker Trailway from the C-3 (Planned Community Shopping Center) District to the C-5 (General Commercial) District. Exhibits: Ordinance No. 11-___, Site Plan, Location Map and Application.

Rogalski stated this request is for a 3.5 acre tract measuring 312 feet by 440 feet, located on the south side of NW Quanah Parker Trailway, approximately half way between NW 67th Street and NW 82nd Street. The applicant is Sun Group, LLC. The zoning of the surrounding area is R-1 (Single-Family Dwelling District) to the north across NW Quanah Parker Trailway, C-3 and R-1 to the south, C-3 and C-4 (Tourist Commercial District) to the east, and C-4 to the west. The land use of the surrounding area is single-family residential to the north, vacant and single-family residential to the south, vacant to the east, and an assisted living center to the west. The 2030 Land Use Plan designates this area as Commercial. The proposed use includes the sale of farm implements and machinery and allows the outdoor display of merchandise, which is a permitted use in the C-5 zoning district. On February 24, 2011, the City Planning Commission held a public hearing on this request. During the public hearing no one spoke for or against the request. The CPC, by a vote of 6 0, recommended approval of the proposed change in zoning, subject to the binding site plan indicating the proposed uses. Notice of public hearing was mailed on February 3, 2011 to 16 property owners within 300 feet of the requested area, and proper notice was published in *The Lawton Constitution* on February 6, 2011.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

Givens questioned if there is any buffer between the commercial district and the residential area.

Rogalski stated there is an existing parcel that does buffer this particular use.

Givens stated there is nothing between the commercial and residential area.

Rogalski stated there is a utility corridor that is a type of buffer. He stated there is a screening requirement between the residential and the adjacent commercial property.

Givens stated this is the same type of problem that came up when Home Depot and Lowe's went in and there is only a tiny opaque fence. He stated when commercial is next to a residential area we need to have some kind of provisions that provides for green belt or buffering between the properties.

Mitchell stated a couple of years ago the council did make some revisions with regards to buffering and multi family when it abuts an adjoining neighborhood.

Rogalski stated currently there is an ordinance that would require any building adjacent to R-1 residential to be set back the height of the building. There would have to be a set back between the development and the building itself. There currently is no greenbelt requirement.

MOVED by Wells, SECOND by Zarle, to adopt **Ordinance 11-08**, waive the reading of the ordinance, read the title only. AYE: Haywood, Wells, Shoemate, Tennis, Bellino-Hall, Burk, Zarle. NAY: Givens. MOTION CARRIED

(Title read by City Attorney) Ordinance 11-08

An ordinance changing the zoning classification from the existing classification of C-3 (Planned Community Shopping Center District) to C-5 (General Commercial District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

11. Consider approving the construction plat for Sun Group Development, subject to conditions. Exhibits: Plat Map.

Rogalski stated they are requesting to make a separate lot out of this item. They are subdividing a ten acre parcel and they are looking to put in a frontage road which would be a public street. Quanah Parker is a limited access roadway and this would be the only access for these lots. On February 24, 2011, the City Planning Commission approved the construction plat subject to the following conditions: 1) Revise the construction plat as required to meet City of Lawton Standards and be approved by the City Engineer, 2) Obtain an Oklahoma Department of Environmental Quality permit for the public water and main extension, 3) Incorporate the record plat into the construction plans for the street and water improvements and 4) Obtain additional right-of-way from adjacent property owner for the entry drive.

MOVED by Wells, SECOND by Zarle, to approve the construction plat for Sun Group Development, subject to conditions. AYE: Wells, Shoemate, Tennis, Bellino-Hall, Burk, Zarle, Haywood. NAY: Givens. MOTION CARRIED

12. Consider approving the record plat for Sun Group Development, and accepting an escrow agreement in lieu of completion of functional improvements. Exhibits: Plat Map.
Escrow Agreement is on file in City Clerk's Office.

Rogalski stated this is the record plat to create those two parcels. There are some public improvements involved in this to include a water line and the short extension of a frontage road. The developer wishes to post a performance bond for the public construction and actually as for a record plat approval.

Givens questioned the distance between this business and the residents behind them.

Rogalski stated there is 170 feet between the new lot and the existing subdivision.

Givens stated this is all open land between the business and the residents.

Zarle questioned if the business will face the road.

Rogalski stated they will face Quanah Parker.

MOVED by Wells, SECOND by Zarle, to approve the record plat for Sun Group Development, and accept an escrow agreement in lieu of completion of functional improvements. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Zarle, Haywood, Wells. NAY: Givens. MOTION CARRIED

22. Consider approving a Joint Resolution between the City of Lawton and the Lawton Fort-Sill Chamber of Commerce to authorize funding assistance from the Lawton Hotel/Motel Economic Development Fund for terminal renovation improvements at Lawton Regional Airport. Exhibits: Request letter from Lawton Fort-Sill Regional Airport - 02/23/2011 and Letter & Joint Resolution submitted by Lawton Chamber - 02/24/2011.

Barbara McNally, Airport Manager, introduced members of the Airport Authority who were in attendance. She stated they are looking at doing thirteen separate projects that will enhance the existing terminal which is very dated. They would like to bring in southwest Oklahoma colors and natural materials. In the past couple of years they have received a lot of input from the public and passengers regarding things they would like to see in the terminal and one was to update some of the facilities. This project will also include more seating.

Burk stated this is a good looking project.

Haywood stated they appreciate all the Ms. McNally does for the airport.

Mitchell stated it was brought to his attention that he may have confused a council member or two with the second paragraph of the commentary. He clarified that when he was talking about the commitment to the downtown hotel and conference center, he stated that the council has pledged the possible use of the economic development fund. There was a discussion last year regarding the possibility that if the hotel-motel tax proposition was not approved in four or five years there would be a gap in the financing of the conference center, and they had the discussion of the possible use of this fund. He stated he wanted everyone to understand that we didn't make a formal commitment, but we did consider the idea.

MOVED by Haywood, SECOND by Wells, to approving **Joint Resolution 11-12** between the City of Lawton and the Lawton Fort-Sill Chamber of Commerce to authorize funding assistance from the Lawton Hotel/Motel Economic Development Fund for terminal renovation improvements at Lawton Regional Airport. AYE: Tennis, Bellino-Hall, Burk, Givens, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Mitchell distributed information from the 2010 census which was requested by Councilmember Haywood. The information shows the estimation of population by wards. Later this year the Redistricting Committee will convene and consider whether or not to change the boundaries of the wards. It is his understanding that the committee cannot do this work until the state has completed their work on redistricting. He stated there is a tremendous amount of growth in wards seven and four.

The Mayor and Council convened in executive session at 7:48 p.m. and reconvened in regular, open session at 8:57 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending lawsuit in the United States District Court for the Western District of Oklahoma, Jason Wells v. City of Lawton, et al., Case No. CIV-09-1354-D, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #23. No action was necessary.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending claim involving Jo Ann Hobbs, the surviving spouse of former city employee Barney Lee Hobbs, and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #24. No action was necessary.

25. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to review the employment of Larry Mitchell as City Manager, and in open session take other action as necessary. Exhibits: Employment Agreement Summary. Amendment to Agreement is on file in the City Clerk's Office.

Mayor Fitch read the title of item #25. He stated they discussed primary issues for the past calendar year. He stated Mr. Mitchell has pinpointed primary issues for this coming year. Some are finalizing issues from the previous. He stated they did issue a minor raise.

MOVED by Haywood, SECOND by Burk, to provide a \$7,000 pay raise with no change to incentive package. AYE: Shoemate, Tennis, Bellino-Hall, Burk, Givens, Haywood, Wells. NAY: Zarle. MOTION CARRIED

There being no further business to consider, the meeting adjourned at 9:01 p.m. upon motion, second and roll call vote.

/s/ Fred L. Fitch

FRED L. FITCH, MAYOR

ATTEST:

/s/ Traci L. Hushbeck

TRACI HUSHBECK, CITY CLERK